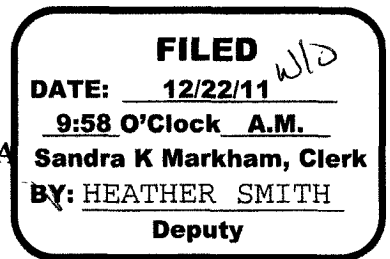


IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION: VISITING JUDGE
HON. GARY E. DONAHOE
CASE NO. P1300CR201001325

SANDRA K MARKHAM, CLERK
BY: HEATHER SMITH, DEPUTY CLERK
DATE: DECEMBER 22, 2011

TITLE:
STATE OF ARIZONA
(Plaintiff)

vs.

STEVEN CARROLL DEMOCKER
(Defendant) (D-1)

COUNSEL:
Yavapai County Attorney (e)
(For Plaintiff)

Craig Williams (e)
Greg Parzych (e)
(For Defendant)

HEARING:
Status Conference/Oral Argument

COURT REPORTER:
Heidi Callahan

START TIME: 9:58 a.m.

APPEARANCES: Jeff Paupore, Counsel for State
Craig Williams Counsel for Defendant
Greg Parzych, Co-Counsel for Defendant
Steven Carroll Democker, Defendant in custody
James J. Belanger present with John Sears

This is the time set for a hearing on all pending motions. The Court provides copies of his notes to Counsel.

The Court addresses and Counsel discuss the States Motion for Deposition of John Sears.

IT IS ORDERED taking the State's Motion for Deposition of John Sears under advisement.

Next, the Court hears arguments regarding Defendant's Motion to Dismiss for Prosecutorial Misconduct or, in the Alternative, Motion to Disqualify the Yavapai County Attorney's Office.

Counsel Craig Williams addresses the Court and requests an Evidentiary Hearing if Court is inclined to deny the motions.

IT IS ORDERED denying both Defendant's Motion to Dismiss for Prosecutorial Misconduct and Defendant's Alternative Motion to Disqualify the Yavapai County Attorney's Office.

Counsel for Defendant, Williams requests a stay to allow him to file a special action with the Court of Appeals. Although the Court does not feel a stay is necessary at this time, **IT IS ORDERED** denying the motion for a stay.

The Court addresses the Motion for Change of Venue.

Counsel for Defendant, Craig Williams, addresses the motion.

IT IS ORDERED denying the Motion for Change of Venue without prejudice to Defendant's right to renew it in the event a qualified jury panel cannot be selected by the Court.

The Court addresses Defendant's Motion to Sever Counts.

Counsel for Defendant, Greg Parzych, addresses the Court.

For the reasons stated on the record, **IT IS ORDERED** denying Defendant's Motion to Sever Counts.

The Court addresses the State's Motion to Amend Indictment and notes that there is no opposition. Therefore, **IT IS ORDERED** granting the State's Motion to Amend the Indictment.

The Court addresses the State's Motion Pursuant to Rule 9.3. Counsel for State has filed a motion to withdraw the motion; therefore, the motion is deemed withdrawn.

The Court addresses Defendant's Motion for Rule 15.9 Re-appointment of Greg Curry and Navigant Consulting.

Counsel for Defendant, Mr. Paryzch, addresses the motion.

IT IS ORDERED granting Defendant's Motion to Re-appoint Greg Curry and Navigant Consulting. If the Public Defender will not accept this minute entry as the Court's order, counsel for Defendant shall submit a form of order to the Court for signature.

State requests that the counsel be allowed to copy the Court with any filings by email to allow the Court to receive the documents in a timely matter. Court will look into the request.

Court addresses the Motion *in Limine* Precluding Character Evidence in the death of James Knapp.

Counsel for the State argues the motion as does Craig Williams for Defendant.

For the reasons stated on the record, **IT IS ORDERED** denying the State's Motion Precluding Character Evidence in the Death of James Knapp without prejudice to the State's right to make appropriate objections to particular items of evidence that may be offered.

Court addresses the Defendant's Request for a Deposition of Mike Sechez and Defendant's Request for a Deposition of Detective Doug Brown.

IT IS ORDERED that Defendant's Request for a Deposition of Mike Sechez and Defendant's Request for a Deposition of Doug Brown are both **DENIED**, but the Court orders both witnesses to appear for an interview on the topic of how DNA sample #603 got under the fingernails of the victim. Neither witness is required to speculate, guess or offer any opinions on the subject if they have no foundation for it.

The Court addresses Defendant's Request for a Deposition of Dr. Phil Keen.

IT IS ORDERED denying Defendant's Request for a Deposition of Dr. Phil Keen, but ordering Dr. Keen to appear for an interview. The fee to be paid to Dr. Keen should be resolved by the indigent defense administrator and Dr. Keen.

Court addresses State's Motion for Admissible Evidence.

IT IS ORDERED denying the State's motion as to the Sorenson testing for bicycle DNA. The balance of the motion is **DENIED** without prejudice to either party's right to file a brief (no more than six pages) motion for reconsideration of any prior ruling setting forth the changed circumstances or new information that the Court should consider. The Court requests that attached to the motion shall be a copy of the prior ruling and the transcript, if any, of any argument or hearing regarding the ruling.

Court addresses the State's Request to Determine Admissibility of Statements.

Court and counsel discuss the motion. Based on the information received, the Court finds that it is not necessary to conduct a voluntariness hearing. The voluntariness of the statements Defendant made during the first interview is not contested and the court has previously ruled that Defendant's statements made during the second interview were voluntary. The issue is whether the statements during the free talk interview can be used against Defendant in trial. Therefore, the Court deems the State's Request to Determine Admissibility of Statements to be moot. Counsel may brief the issue of the admissibility of the free talk statements to the Court. Whichever Counsel files the motion shall submit a copy of the relevant portions of the free talk transcript attached to the motion for the Court's review.

Counsel discuss State's Motion for *In Camera* Inspection of Records. Mr. Paupore advises that Court that the motion was filed because a public records request was made for the photographs. Counsel for Defendant objects to the release of any photographs prior to the start of trial.

IT IS ORDERED directing the State to deny the public records request for the reasons stated on the record with the main reason being the Court's concern regarding picking an impartial jury panel.

Court and Counsel address the trial schedule. The Court suggests a trial date of February 20, 2012.

Counsel Parzych addresses the Court regarding a capital trial he is scheduled to take part in in Maricopa County with Judge O'Conner in February, 2012.

Court takes a brief recess at 11:39 a.m.

Court resumes at 11:52 a.m.

Counsel Williams requests an April 11, 2012 trial date. He always waives time.

The Court is informed that not all interviews have been conducted. The Court is advised that there are a number of expert witnesses, some who are out of state, that still need to be interviewed.

Counsel for the State will be ready for trial when the date is set; however, State's counsel does not want to force Defendant to begin in February if he is not ready.

The Court suggests a Monday through Thursday trial schedule. The Court is advised that trials in Prescott are generally held Tuesday through Friday, with Monday being used for law and motion day.

Counsel for State will need approximately 32 trial days. Counsel for Defendant will need approximately 16 to 20 trial days. Both Counsel indicate the number of trial days are estimates only at this point.

The Court notes that this case will be tried in Prescott in this Courtroom, Division 1.

The Court will select a trial date and will generate a minute entry. The Court will adjust the trial deadlines if necessary.

Cheryl will email counsel to inform them as to whether or not it would be appropriate to email the Court directly or whether they should email through Cheryl only.

Counsel for Defendant, Mr. Parzych, advises the Court that he will be unavailable the week of March 12, 2012.

The Court will contact Judge O'Conner regarding Mr. Parzychs' trial conflict.

The Court will also consider whether or not the trial days should be Monday through Thursday or Tuesday through Friday.

CC: Hon. Gary E. Donahoe (e)
YCSO – Detention Records (e)
Victim Services (e)
Steptoe & Johnson (e)
Melody Harmon (e)
De La Torre Law Office (e)
William Culbertson (e)
James J. Belanger, 2800 N. Central Avenue, Ste 1200, Phoenix, AZ 85004

END TIME: 12:09 p.m.